

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PAULA BAILEY, individually, and
KRYSTAL CLARK, and HOPE
ZENTZ, on behalf of themselves
and others similarly situated,

Plaintiffs,

v.

HEIDI WASHINGTON, JEREMY
HOWARD, SHAWN BREWER,
KENNETH MCKEE, JEREMY
BUSH, LIA GULICK, ED VALLAD,
DAVID JOHNSON, KARRI
OSTERHOUT, JOSEPH TREPPA,
DAN CARTER, JOEL DREFFS,
RICHARD BULLARD, and TONI
MOORE, in their official and
individual capacity,

Defendants.

No. 2:19-cv-13442

HON. STEPHEN J. MURPHY, III

MAG. ELIZABETH A. STAFFORD

**DEFENDANTS' MOTION FOR
ENLARGEMENT OF TIME TO
FILE OBJECTIONS TO REPORT
AND RECOMMENDATION (ECF
NO. 223)**

**IMMEDIATE CONSIDERATION
REQUESTED**

MARKO LAW, PLLC
Jonathan R. Marko (P72450)
220 W. Congress, Fourth Floor
Detroit, MI 48226
(313) 777-7LAW
jon@jmarkolaw.com

NICHOLS KASTER, PLLP
Matthew H. Morgan (MN304657)
Rebekah L. Bailey (MN0389599)
80 South Eight Street, Ste 4700
Minneapolis, MN 55402

**Michigan Dep't of Attorney
General**
Joshua S. Smith (P63349)
Kristin M. Southerland (P64353)
John L. Thurber (P44989)
Michael R. Dean (P71333)
Jennifer A. Foster (P75947)
Sara E. Trudgeon (P82155)
William J. Predhomme II (P81527)
Assistant Attorneys General
Attorneys for Defendants Brewer,
Bush, Bullard, Carter, Dreffi, Gulick,

(612) 256-3200
morgan@nka.com
bailey@nka.com

**PITT MCGEHEE PALMER &
RIVERS PC**

Cary S. McGehee (P42318)
Beth M. Rivers (P33614)
Channing Robinson-Holmes
(P81698)
117 W. 4th Street, Ste 200
Royal Oak, MI 48067
(248) 398-9800
cmcgehee@pittlawpc.com
brivers@pittlawpc.com
crobinson@pittlawpc.com

**LAW OFFICES OF DAVID S.
STEINGOLD, PLLC**

David S. Steingold (P29752)
Samantha Baker (P83674)
500 Griswold Street, Ste. 2320
Detroit, MI 48226
(313) 962-0000
detroitdefender@yahoo.com

EXCOLO LAW, PLLC

Ari Kresch (P29593)
26700 Lahser Road, Ste. 301
Southfield, MI 48033
(866) 939-2656
akresch@1800lawfirm.com

**THE LAW OFFICE OF KEITH
ALTMAN**

Solomon A. Radner (P73653)
33228 West 12 Mile Road, Suite 375
Farmington Hills, MI 48331
(248) 987-8929
solomonradner@kaltmanlaw.com

Howard, Johnson, McKee, Moore,
Osterhout, Treppa, Vallad &
Washington
Corrections Division
P.O. Box 30217
Lansing, MI 48909
(517) 335-3055
Deanm2@michigan.gov
Smithj191@michigan.gov

*Attorneys for Plaintiffs & the
Putative Classes*

**DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME TO
FILE OBJECTIONS TO REPORT AND RECOMMENDATION
(ECF NO. 223)**

IMMEDIATE CONSIDERATION REQUESTED

Defendants Heidi Washington, Shawn Brewer, Richard Bullard, Dan Carter, Lia Gulick, David Johnson, Kenneth McKee, Karri Osterhout, Toni Moore, Joseph Treppa, Ed Vallad, Jeremy Bush, and Jeremy Howard, for the reasons stated in their Brief in Support, ask this Court to grant their Motion for an enlargement of time to file objections to the Report and Recommendation Following Evidentiary Hearing on Exhaustion Issues (ECF No. 223). The new due date will be April 9, 2025.

Pursuant to Local Rule 7.1, Defendants' counsel discussed a possible extension with Plaintiffs' counsel following the hearing on Defendants' motion to dismiss on March 19, 2025, and via e-mail on March 24, 2025, to determine if they would concur in the relief sought, providing an explanation of the nature of and basis for the motion, in addition to the opportunity to confer. On March 25, 2025, Plaintiffs'

counsel refused to concur, but indicated that they would not oppose the motion, thereby necessitating this motion.

Respectfully submitted,

Dana Nessel
Attorney General

/s/ Michael R. Dean
Michael R. Dean
Assistant Attorney General
Attorney for Defendants
Corrections Division
P.O. Box 30217
Lansing, MI 48909
deanm2@michigan.gov
(517) 335-3055
P71333

Dated: March 25, 2025

CERTIFICATE OF SERVICE (EFILE)

I hereby certify that on March 25, 2025, I electronically filed the *foregoing document* together with this *Certificate of Service* with the Clerk of the Court, through the ECF system, which will provide electronic copies to counsel of record.

/s/ Michael R. Dean
Michael R. Dean
Assistant Attorney General
Attorney for Defendants
Corrections Division
P.O. Box 30217
Lansing, MI 48909
deanm2@michigan.gov
(517) 335-3055
P71333

Dated: March 25, 2025

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PAULA BAILEY, individually, and
KRYSTAL CLARK, and HOPE
ZENTZ, on behalf of themselves
and others similarly situated,

Plaintiffs,

v.

No. 2:19-cv-13442

HON. STEPHEN J. MURPHY, III

MAG. ELIZABETH A. STAFFORD

HEIDI WASHINGTON, JEREMY
HOWARD, SHAWN BREWER,
KENNETH MCKEE, JEREMY
BUSH, LIA GULICK, ED VALLAD,
DAVID JOHNSON, KARRI
OSTERHOUT, JOSEPH TREPPA,
DAN CARTER, JOEL DREFFS,
RICHARD BULLARD, and TONI
MOORE, in their official and
individual capacity,

Defendants.

**BRIEF IN SUPPORT OF
DEFENDANTS' MOTION FOR
ENLARGEMENT OF TIME TO
FILE OBJECTIONS TO REPORT
AND RECOMMENDATION (ECF
NO. 223)**

MARKO LAW, PLLC

Jonathan R. Marko (P72450)
220 W. Congress, Fourth Floor
Detroit, MI 48226
(313) 777-7LAW
jon@jmarkolaw.com

NICHOLS KASTER, PLLP

Matthew H. Morgan (MN304657)
Rebekah L. Bailey (MN0389599)
80 South Eight Street, Ste 4700
Minneapolis, MN 55402
(612) 256-3200

**Michigan Dep't of Attorney
General**

Michael R. Dean
Joshua S. Smith (P71333)
Kristin M. Southerland (P64353)
John L. Thurber (P44989)
Michael R. Dean (P71333)
Jennifer A. Foster (P75947)
Sara E. Trudgeon (P82155)
William J. Predhomme II (P81527)
Assistant Attorneys General
Attorneys for Defendants Brewer,

morgan@nka.com

bailey@nka.com

**PITT MCGEHEE PALMER &
RIVERS PC**

Cary S. McGehee (P42318)

Beth M. Rivers (P33614)

Channing Robinson-Holmes
(P81698)

117 W. 4th Street, Ste 200

Royal Oak, MI 48067

(248) 398-9800

cmcgehee@pittlawpc.com

brivers@pittlawpc.com

crobinson@pittlawpc.com

**LAW OFFICES OF DAVID S.
STEINGOLD, PLLC**

David S. Steingold (P29752)

Samantha Baker (P83674)

500 Griswold Street, Ste. 2320

Detroit, MI 48226

(313) 962-0000

detroitdefender@yahoo.com

EXCOLO LAW, PLLC

Ari Kresch (P29593)

26700 Lahser Road, Ste. 301

Southfield, MI 48033

(866) 939-2656

akresch@1800lawfirm.com

**THE LAW OFFICE OF KEITH
ALTMAN**

Solomon A. Radner (P73653)

33228 West 12 Mile Road, Suite 375

Farmington Hills, MI 48331

(248) 987-8929

solomonradner@kaltmanlaw.com

Bush, Bullard, Carter, Drepps, Gulick,
Howard, Johnson, McKee, Moore,
Osterhout, Treppa, Vallad &
Washington

Corrections Division

P.O. Box 30217

Lansing, MI 48909

(517) 335-3055

Deanm2@michigan.gov

Smithj191@michigan.gov

*Attorneys for Plaintiffs & the
Putative Classes*

**BRIEF IN SUPPORT OF DEFENDANTS' MOTION FOR
ENLARGEMENT OF TIME TO FILE OBJECTIONS TO REPORT
AND RECOMMENDATION (ECF NO. 223)**

Michael R. Dean
Assistant Attorney General
Attorney for Defendants
Corrections Division
P.O. Box 30217
Lansing, MI 48909
deanm2@michigan.gov
(517) 335-3055
P71333

Dated: March 25, 2025

TABLE OF CONTENTS

	<u>Page</u>
Table of Contents	i
Index of Authorities	ii
Concise Statement of Issue Presented	iii
Controlling or Most Appropriate Authority	iii
Statement of Facts	1
Argument.....	2
I. Good cause exists to grant Defendants’ motion to enlarge the date to file objections to the report and recommendation by 14 days because the attorney responsible for the exhaustion motion was out of state when the report was issued.	2

INDEX OF AUTHORITIES

Page

No table of authorities entries found.**Rules**

Fed. R. Civ. P. 56 1

Under Fed. R. Civ. P. 6(b)(1)(A)..... 2

CONCISE STATEMENT OF ISSUE PRESENTED

1. Fed. R. Civ. P. 6(b)(1) allows a due date to be extended if the request is made before the original time expires. The court's report and recommendation regarding exhaustion was issued on March 12, 2025, while Defendants' counsel involved in this motion was out of state. Should this Court enlarge the date to file objection by 14 days to enable time to respond?

CONTROLLING OR MOST APPROPRIATE AUTHORITY

Authority: Fed. R. Civ. P. 6(b)(1)(A)

STATEMENT OF FACTS

This case is brought by three Plaintiffs of a putative class action lawsuit alleging that the conditions of confinement at the Women's Huron Valley Correctional Facility violate their constitutional rights under 42 U.S.C. § 1983. Defendants filed a motion for summary judgment under Fed. R. Civ. P. 56, on the grounds that the Plaintiffs failed to exhaust their administrative remedies. (ECF No. 177.) An evidentiary hearing was held on October 30, 2024. (See Minute Entry for in-person proceedings; see also ECF No. 213, Trns. of Evidentiary Hrng.)

On March 12, 2025, Judge Stafford issued a report and recommendation and recommended that Defendants' motion be denied. (ECF No. 322.) Defendants' counsel Michael Dean was out of state on annual leave from March 8 through 18, 2025, attending his daughter's wedding. Attorney Dean has been integrally involved in the preparation for the evidentiary hearing on exhaustion, the post-hearing brief, and reviewing the report and recommendation and objections to it. Thus, the requested 14-day extension to file objections to the report

is necessary. Plaintiffs have indicated that, while they will not stipulate to this motion, they will not oppose it.

ARGUMENT

I. Good cause exists to grant Defendants’ motion to enlarge the date to file objections to the report and recommendation by 14 days because the attorney responsible for the exhaustion motion was out of state when the report was issued.

The due date to file objections to the March 12, 2025, report and recommendation should be enlarged to April 9, 2025. Under Fed. R. Civ. P. 6(b)(1)(A), “[w]hen an act may or must be done within a specified time, the court may, for good cause, extend the time: with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires.”

Good cause exists here where the report was issued on March 12, 2025 while Defendants’ attorney Michael Dean was out of state on annual leave from March 8 through 18, 2025, to attend his daughter’s wedding. Attorney Dean has been heavily involved in preparation for the evidentiary hearing on exhaustion, the post-hearing brief, and preparation of the review and objections to the report and recommendation. The additional 14 days to file objections will not

prejudice Plaintiffs, who have already indicated that they will not oppose the motion.

CONCLUSION AND RELIEF REQUESTED

Defendants have shown good cause to enlarge the time to file objections to the report and recommendation (ECF No. 223) by 14 days, or until April 9, 2025.

Respectfully submitted,

Dana Nessel
Attorney General

/s/ Michael R. Dean
Michael R. Dean
Assistant Attorney General
Attorney for Defendants
Corrections Division
P.O. Box 30217
Lansing, MI 48909
deanm2@michigan.gov
(517) 335-3055
P71333

Dated: March 25, 2025

CERTIFICATE OF SERVICE (EFILE)

I hereby certify that on March 25, 2025, I electronically filed the *foregoing document* together with this *Certificate of Service* with the Clerk of the Court, through the ECF system, which will provide electronic copies to counsel of record.

/s/ Michael R. Dean
Michael R. Dean
Assistant Attorney General
Attorney for Defendants
Corrections Division
P.O. Box 30217
Lansing, MI 48909
deanm2@michigan.gov
(517) 335-3055
P71333

Dated: March 25, 2025